

AMENDED IN ASSEMBLY MARCH 22, 2007
AMENDED IN ASSEMBLY FEBRUARY 15, 2007
CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 104

Introduced by Assembly Member Solorio
*(Coauthors: Assembly Members Anderson, DeVore, Sharon Runner,
and Spitzer)*

January 3, 2007

An act to amend Sections 11105 and 13300 of the Penal Code, relating to criminal records.

LEGISLATIVE COUNSEL'S DIGEST

AB 104, as amended, Solorio. Criminal records: city attorneys.

Existing law requires the Department of Justice to maintain specified criminal history information, and requires the Attorney General to supply that information to specified law enforcement and other entities, as prescribed.

This bill would additionally require the Attorney General to provide criminal history information to city attorneys pursuing civil *gang* injunctions, as specified.

Existing law requires local criminal justice agencies to supply local criminal history information, as defined, to specified law enforcement and other entities, as prescribed.

This bill would additionally require local criminal justice agencies to provide local criminal history information to city attorneys pursuing civil *gang* injunctions, as specified.

By imposing additional duties on local criminal justice agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11105 of the Penal Code is amended to
2 read:
3 11105. (a) (1) The Department of Justice shall maintain state
4 summary criminal history information.
5 (2) As used in this section:
6 (A) “State summary criminal history information” means the
7 master record of information compiled by the Attorney General
8 pertaining to the identification and criminal history of any person,
9 such as name, date of birth, physical description, fingerprints,
10 photographs, date of arrests, arresting agencies and booking
11 numbers, charges, dispositions, and similar data about the person.
12 (B) “State summary criminal history information” does not refer
13 to records and data compiled by criminal justice agencies other
14 than the Attorney General, nor does it refer to records of complaints
15 to or investigations conducted by, or records of intelligence
16 information or security procedures of, the office of the Attorney
17 General and the Department of Justice.
18 (b) The Attorney General shall furnish state summary criminal
19 history information to any of the following, if needed in the course
20 of their duties, provided that when information is furnished to
21 assist an agency, officer, or official of state or local government,
22 a public utility, or any other entity, in fulfilling employment,
23 certification, or licensing duties, Chapter 1321 of the Statutes of
24 1974 and Section 432.7 of the Labor Code shall apply:
25 (1) The courts of the state.
26 (2) Peace officers of the state as defined in Section 830.1,
27 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section

1 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision
2 (a) of Section 830.31.

3 (3) District attorneys of the state.

4 (4) Prosecuting city attorneys of any city within the state,
5 ~~including city attorneys designated to pursue civil injunctions~~
6 ~~pursuant to Section 3479 or 3480 of the Civil Code, or Section~~
7 ~~186.22a of this code, or to pursue civil drug abatement actions~~
8 ~~pursuant to Section 11571 of the Health and Safety Code.~~ state.

9 (5) *City attorneys pursuing civil gang injunctions pursuant to*
10 *Section 3479 or 3480 of the Civil Code, Section 11571 of the*
11 *Health and Safety Code, or Section 186.22a of this code.*

12 ~~(5)~~

13 (6) Probation officers of the state.

14 ~~(6)~~

15 (7) Parole officers of the state.

16 ~~(7)~~

17 (8) A public defender or attorney of record when representing
18 a person in proceedings upon a petition for a certificate of
19 rehabilitation and pardon pursuant to Section 4852.08.

20 ~~(8)~~

21 (9) A public defender or attorney of record when representing
22 a person in a criminal case, or parole revocation or revocation
23 extension proceeding, and if authorized access by statutory or
24 decisional law.

25 ~~(9)~~

26 (10) Any agency, officer, or official of the state if the criminal
27 history information is required to implement a statute or regulation
28 that expressly refers to specific criminal conduct applicable to the
29 subject person of the state summary criminal history information,
30 and contains requirements or exclusions, or both, expressly based
31 upon that specified criminal conduct. The agency, officer, or
32 official of the state authorized by this paragraph to receive state
33 summary criminal history information may also transmit fingerprint
34 images and related information to the Department of Justice to be
35 transmitted to the Federal Bureau of Investigation.

36 ~~(10)~~

37 (11) Any city or county, or city and county, or district, or any
38 officer, or official thereof if access is needed in order to assist that
39 agency, officer, or official in fulfilling employment, certification,
40 or licensing duties, and if the access is specifically authorized by

1 the city council, board of supervisors, or governing board of the
2 city, county, or district if the criminal history information is
3 required to implement a statute, ordinance, or regulation that
4 expressly refers to specific criminal conduct applicable to the
5 subject person of the state summary criminal history information,
6 and contains requirements or exclusions, or both, expressly based
7 upon that specified criminal conduct. The city or county, or city
8 and county, or district, or the officer or official thereof authorized
9 by this paragraph may also transmit fingerprint images and related
10 information to the Department of Justice to be transmitted to the
11 Federal Bureau of Investigation.

12 ~~(11)~~

13 (12) The subject of the state summary criminal history
14 information under procedures established under Article 5
15 (commencing with Section 11120) of Chapter 1 of Title 1 of Part
16 4.

17 ~~(12)~~

18 (13) Any person or entity when access is expressly authorized
19 by statute if the criminal history information is required to
20 implement a statute or regulation that expressly refers to specific
21 criminal conduct applicable to the subject person of the state
22 summary criminal history information, and contains requirements
23 or exclusions, or both, expressly based upon that specified criminal
24 conduct.

25 ~~(13)~~

26 (14) Health officers of a city, county, or city and county, or
27 district, when in the performance of their official duties enforcing
28 Section 120175 of the Health and Safety Code.

29 ~~(14)~~

30 (15) Any managing or supervising correctional officer of a
31 county jail or other county correctional facility.

32 ~~(15)~~

33 (16) Any humane society, or society for the prevention of cruelty
34 to animals, for the specific purpose of complying with Section
35 14502 of the Corporations Code for the appointment of level 1
36 humane officers.

37 ~~(16)~~

38 (17) Local child support agencies established by Section 17304
39 of the Family Code. When a local child support agency closes a
40 support enforcement case containing summary criminal history

1 information, the agency shall delete or purge from the file and
2 destroy any documents or information concerning or arising from
3 offenses for or of which the parent has been arrested, charged, or
4 convicted, other than for offenses related to the parent's having
5 failed to provide support for minor children, consistent with the
6 requirements of Section 17531 of the Family Code.

7 ~~(17)~~

8 (18) County child welfare agency personnel who have been
9 delegated the authority of county probation officers to access state
10 summary criminal history information pursuant to Section 272 of
11 the Welfare and Institutions Code for the purposes specified in
12 Section 16504.5 of the Welfare and Institutions Code. Information
13 from criminal history records provided pursuant to this subdivision
14 shall not be used for any purposes other than those specified in
15 this section and Section 16504.5 of the Welfare and Institutions
16 Code. When an agency obtains records obtained both on the basis
17 of name checks and fingerprint checks, final placement decisions
18 shall be based only on the records obtained pursuant to the
19 fingerprint check.

20 (c) The Attorney General may furnish state summary criminal
21 history information and, when specifically authorized by this
22 subdivision, federal level criminal history information upon a
23 showing of a compelling need to any of the following, provided
24 that when information is furnished to assist an agency, officer, or
25 official of state or local government, a public utility, or any other
26 entity, in fulfilling employment, certification, or licensing duties,
27 Chapter 1321 of the Statutes of 1974 and Section 432.7 of the
28 Labor Code shall apply:

29 (1) Any public utility as defined in Section 216 of the Public
30 Utilities Code that operates a nuclear energy facility when access
31 is needed in order to assist in employing persons to work at the
32 facility, provided that, if the Attorney General supplies the data,
33 he or she shall furnish a copy of the data to the person to whom
34 the data relates.

35 (2) To a peace officer of the state other than those included in
36 subdivision (b).

37 (3) To a peace officer of another country.

38 (4) To public officers (other than peace officers) of the United
39 States, other states, or possessions or territories of the United
40 States, provided that access to records similar to state summary

1 criminal history information is expressly authorized by a statute
2 of the United States, other states, or possessions or territories of
3 the United States if the information is needed for the performance
4 of their official duties.

5 (5) To any person when disclosure is requested by a probation,
6 parole, or peace officer with the consent of the subject of the state
7 summary criminal history information and for purposes of
8 furthering the rehabilitation of the subject.

9 (6) The courts of the United States, other states, or territories
10 or possessions of the United States.

11 (7) Peace officers of the United States, other states, or territories
12 or possessions of the United States.

13 (8) To any individual who is the subject of the record requested
14 if needed in conjunction with an application to enter the United
15 States or any foreign nation.

16 (9) (A) Any public utility as defined in Section 216 of the Public
17 Utilities Code, or any cable corporation as defined in subparagraph
18 (B), if receipt of criminal history information is needed in order
19 to assist in employing current or prospective employees, contract
20 employees, or subcontract employees who, in the course of their
21 employment may be seeking entrance to private residences or
22 adjacent grounds. The information provided shall be limited to the
23 record of convictions and any arrest for which the person is released
24 on bail or on his or her own recognizance pending trial.

25 If the Attorney General supplies the data pursuant to this
26 paragraph, the Attorney General shall furnish a copy of the data
27 to the current or prospective employee to whom the data relates.

28 Any information obtained from the state summary criminal
29 history is confidential and the receiving public utility or cable
30 corporation shall not disclose its contents, other than for the
31 purpose for which it was acquired. The state summary criminal
32 history information in the possession of the public utility or cable
33 corporation and all copies made from it shall be destroyed not
34 more than 30 days after employment or promotion or transfer is
35 denied or granted, except for those cases where a current or
36 prospective employee is out on bail or on his or her own
37 recognizance pending trial, in which case the state summary
38 criminal history information and all copies shall be destroyed not
39 more than 30 days after the case is resolved.

1 A violation of this paragraph is a misdemeanor, and shall give
2 the current or prospective employee who is injured by the violation
3 a cause of action against the public utility or cable corporation to
4 recover damages proximately caused by the violations. Any public
5 utility's or cable corporation's request for state summary criminal
6 history information for purposes of employing current or
7 prospective employees who may be seeking entrance to private
8 residences or adjacent grounds in the course of their employment
9 shall be deemed a "compelling need" as required to be shown in
10 this subdivision.

11 Nothing in this section shall be construed as imposing any duty
12 upon public utilities or cable corporations to request state summary
13 criminal history information on any current or prospective
14 employees.

15 (B) For purposes of this paragraph, "cable corporation" means
16 any corporation or firm that transmits or provides television,
17 computer, or telephone services by cable, digital, fiber optic,
18 satellite, or comparable technology to subscribers for a fee.

19 (C) Requests for federal level criminal history information
20 received by the Department of Justice from entities authorized
21 pursuant to subparagraph (A) shall be forwarded to the Federal
22 Bureau of Investigation by the Department of Justice. Federal level
23 criminal history information received or compiled by the
24 Department of Justice may then be disseminated to the entities
25 referenced in subparagraph (A), as authorized by law.

26 (D) (i) Authority for a cable corporation to request state or
27 federal level criminal history information under this paragraph
28 shall commence July 1, 2005.

29 (ii) Authority for a public utility to request federal level criminal
30 history information under this paragraph shall commence July 1,
31 2005.

32 (10) To any campus of the California State University or the
33 University of California, or any four-year college or university
34 accredited by a regional accreditation organization approved by
35 the United States Department of Education, if needed in
36 conjunction with an application for admission by a convicted felon
37 to any special education program for convicted felons, including,
38 but not limited to, university alternatives and halfway houses. Only
39 conviction information shall be furnished. The college or university
40 may require the convicted felon to be fingerprinted, and any inquiry

1 to the department under this section shall include the convicted
2 felon's fingerprints and any other information specified by the
3 department.

4 (d) Whenever an authorized request for state summary criminal
5 history information pertains to a person whose fingerprints are on
6 file with the Department of Justice and the department has no
7 criminal history of that person, and the information is to be used
8 for employment, licensing, or certification purposes, the fingerprint
9 card accompanying the request for information, if any, may be
10 stamped "no criminal record" and returned to the person or entity
11 making the request.

12 (e) Whenever state summary criminal history information is
13 furnished as the result of an application and is to be used for
14 employment, licensing, or certification purposes, the Department
15 of Justice may charge the person or entity making the request a
16 fee that it determines to be sufficient to reimburse the department
17 for the cost of furnishing the information. In addition, the
18 Department of Justice may add a surcharge to the fee to fund
19 maintenance and improvements to the systems from which the
20 information is obtained. Notwithstanding any other law, any person
21 or entity required to pay a fee to the department for information
22 received under this section may charge the applicant a fee sufficient
23 to reimburse the person or entity for this expense. All moneys
24 received by the department pursuant to this section, Sections
25 11105.3 and 12054 of the Penal Code, and Section 13588 of the
26 Education Code shall be deposited in a special account in the
27 General Fund to be available for expenditure by the department
28 to offset costs incurred pursuant to those sections and for
29 maintenance and improvements to the systems from which the
30 information is obtained upon appropriation by the Legislature.

31 (f) Whenever there is a conflict, the processing of criminal
32 fingerprints and fingerprints of applicants for security guard or
33 alarm agent registrations or firearms qualification permits
34 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4
35 of the Business and Professions Code shall take priority over the
36 processing of other applicant fingerprints.

37 (g) It is not a violation of this section to disseminate statistical
38 or research information obtained from a record, provided that the
39 identity of the subject of the record is not disclosed.

1 (h) It is not a violation of this section to include information
2 obtained from a record in (1) a transcript or record of a judicial or
3 administrative proceeding or (2) any other public record if the
4 inclusion of the information in the public record is authorized by
5 a court, statute, or decisional law.

6 (i) Notwithstanding any other law, the Department of Justice
7 or any state or local law enforcement agency may require the
8 submission of fingerprints for the purpose of conducting summary
9 criminal history information checks that are authorized by law.

10 (j) The state summary criminal history information shall include
11 any finding of mental incompetence pursuant to Chapter 6
12 (commencing with Section 1367) of Title 10 of Part 2 arising out
13 of a complaint charging a felony offense specified in Section 290.

14 (k) (1) This subdivision shall apply whenever state or federal
15 summary criminal history information is furnished by the
16 Department of Justice as the result of an application by an
17 authorized agency or organization and the information is to be
18 used for peace officer employment or certification purposes. As
19 used in this subdivision, a peace officer is defined in Chapter 4.5
20 (commencing with Section 830) of Title 3 of Part 2.

21 (2) Notwithstanding any other provision of law, whenever state
22 summary criminal history information is furnished pursuant to
23 paragraph (1), the Department of Justice shall disseminate the
24 following information:

25 (A) Every conviction rendered against the applicant.

26 (B) Every arrest for an offense for which the applicant is
27 presently awaiting trial, whether the applicant is incarcerated or
28 has been released on bail or on his or her own recognizance
29 pending trial.

30 (C) Every arrest or detention, except for an arrest or detention
31 resulting in an exoneration, provided however that where the
32 records of the Department of Justice do not contain a disposition
33 for the arrest, the Department of Justice first makes a genuine effort
34 to determine the disposition of the arrest.

35 (D) Every successful diversion.

36 (l) (1) This subdivision shall apply whenever state or federal
37 summary criminal history information is furnished by the
38 Department of Justice as the result of an application by a criminal
39 justice agency or organization as defined in Section 13101 of the

1 Penal Code, and the information is to be used for criminal justice
2 employment, licensing, or certification purposes.

3 (2) Notwithstanding any other provision of law, whenever state
4 summary criminal history information is furnished pursuant to
5 paragraph (1), the Department of Justice shall disseminate the
6 following information:

7 (A) Every conviction rendered against the applicant.

8 (B) Every arrest for an offense for which the applicant is
9 presently awaiting trial, whether the applicant is incarcerated or
10 has been released on bail or on his or her own recognizance
11 pending trial.

12 (C) Every arrest for an offense for which the records of the
13 Department of Justice do not contain a disposition or did not result
14 in a conviction, provided that the Department of Justice first makes
15 a genuine effort to determine the disposition of the arrest. However,
16 information concerning an arrest shall not be disclosed if the
17 records of the Department of Justice indicate or if the genuine
18 effort reveals that the subject was exonerated, successfully
19 completed a diversion or deferred entry of judgment program, or
20 the arrest was deemed a detention.

21 (m) (1) This subdivision shall apply whenever state or federal
22 summary criminal history information is furnished by the
23 Department of Justice as the result of an application by an
24 authorized agency or organization pursuant to Section 1522,
25 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
26 any statute that incorporates the criteria of any of those sections
27 or this subdivision by reference, and the information is to be used
28 for employment, licensing, or certification purposes.

29 (2) Notwithstanding any other provision of law, whenever state
30 summary criminal history information is furnished pursuant to
31 paragraph (1), the Department of Justice shall disseminate the
32 following information:

33 (A) Every conviction of an offense rendered against the
34 applicant.

35 (B) Every arrest for an offense for which the applicant is
36 presently awaiting trial, whether the applicant is incarcerated or
37 has been released on bail or on his or her own recognizance
38 pending trial.

39 (C) Every arrest for an offense for which the Department of
40 Social Services is required by paragraph (1) of subdivision (a) of

1 Section 1522 of the Health and Safety Code to determine if an
2 applicant has been arrested. However, if the records of the
3 Department of Justice do not contain a disposition for an arrest,
4 the Department of Justice shall first make a genuine effort to
5 determine the disposition of the arrest.

6 (3) Notwithstanding the requirements of the sections referenced
7 in paragraph (1) of this subdivision, the Department of Justice
8 shall not disseminate information about an arrest subsequently
9 deemed a detention or an arrest that resulted in either the successful
10 completion of a diversion program or exoneration.

11 (n) (1) This subdivision shall apply whenever state or federal
12 summary criminal history information, to be used for employment,
13 licensing, or certification purposes, is furnished by the Department
14 of Justice as the result of an application by an authorized agency,
15 organization, or individual pursuant to any of the following:

16 (A) Paragraph (9) of subdivision (c), when the information is
17 to be used by a cable corporation.

18 (B) Section 11105.3 or 11105.4.

19 (C) Section 15660 of the Welfare and Institutions Code.

20 (D) Any statute that incorporates the criteria of any of the
21 statutory provisions listed in subparagraph (A), (B), or (C), or of
22 this subdivision, by reference.

23 (2) With the exception of applications submitted by
24 transportation companies authorized pursuant to Section 11105.3,
25 and notwithstanding any other provision of law, whenever state
26 summary criminal history information is furnished pursuant to
27 paragraph (1), the Department of Justice shall disseminate the
28 following information:

29 (A) Every conviction rendered against the applicant for a
30 violation or attempted violation of any offense specified in
31 subdivision (a) of Section 15660 of the Welfare and Institutions
32 Code. However, with the exception of those offenses for which
33 registration is required pursuant to Section 290, the Department
34 of Justice shall not disseminate information pursuant to this
35 subdivision unless the conviction occurred within 10 years of the
36 date of the agency's request for information or the conviction is
37 over 10 years old but the subject of the request was incarcerated
38 within 10 years of the agency's request for information.

39 (B) Every arrest for a violation or attempted violation of an
40 offense specified in subdivision (a) of Section 15660 of the Welfare

1 and Institutions Code for which the applicant is presently awaiting
2 trial, whether the applicant is incarcerated or has been released on
3 bail or on his or her own recognizance pending trial.

4 (o) (1) This subdivision shall apply whenever state or federal
5 summary criminal history information is furnished by the
6 Department of Justice as the result of an application by an
7 authorized agency or organization pursuant to Section 261 or 777.5
8 of the Financial Code, or any statute that incorporates the criteria
9 of either of those sections or this subdivision by reference, and the
10 information is to be used for employment, licensing, or certification
11 purposes.

12 (2) Notwithstanding any other provision of law, whenever state
13 summary criminal history information is furnished pursuant to
14 paragraph (1), the Department of Justice shall disseminate the
15 following information:

16 (A) Every conviction rendered against the applicant for a
17 violation or attempted violation of any offense specified in Section
18 777.5 of the Financial Code.

19 (B) Every arrest for a violation or attempted violation of an
20 offense specified in Section 777.5 of the Financial Code for which
21 the applicant is presently awaiting trial, whether the applicant is
22 incarcerated or has been released on bail or on his or her own
23 recognizance pending trial.

24 (p) (1) This subdivision shall apply whenever state or federal
25 criminal history information is furnished by the Department of
26 Justice as the result of an application by an agency, organization,
27 or individual not defined in subdivision (k), (l), (m), (n), or (o), or
28 by a transportation company authorized pursuant to Section
29 11105.3, or any statute that incorporates the criteria of that section
30 or this subdivision by reference, and the information is to be used
31 for employment, licensing, or certification purposes.

32 (2) Notwithstanding any other provisions of law, whenever state
33 summary criminal history information is furnished pursuant to
34 paragraph (1), the Department of Justice shall disseminate the
35 following information:

36 (A) Every conviction rendered against the applicant.

37 (B) Every arrest for an offense for which the applicant is
38 presently awaiting trial, whether the applicant is incarcerated or
39 has been released on bail or on his or her own recognizance
40 pending trial.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (l), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2.

(r) Nothing in this section shall be construed to mean that the Department of Justice shall cease compliance with any other statutory notification requirements.

(s) The provisions of Section 50.12 of Title 28 of the Code of Federal Regulations are to be followed in processing federal criminal history information.

SEC. 2. Section 13300 of the Penal Code is amended to read:

13300. (a) As used in this section:

(1) "Local summary criminal history information" means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(2) "Local summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency.

(3) "Local agency" means a local criminal justice agency.

(b) A local agency shall furnish local summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, and subdivisions (a), (b), and (c) of Section 830.5.

1 (3) District attorneys of the state.

2 (4) Prosecuting city attorneys of any city within the state;
3 ~~including city attorneys designated to pursue civil injunctions~~
4 ~~pursuant to Section 3479 or 3480 of the Civil Code, or Section~~
5 ~~186.22a of this code, or to pursue civil drug abatement actions~~
6 ~~pursuant to Section 11571 of the Health and Safety Code.~~

7 (5) *City attorneys pursuing civil gang injunctions pursuant to*
8 *Section 3479 or 3480 of the Civil Code, Section 11571 of the*
9 *Health and Safety Code, or Section 186.22a of this code.*

10 ~~(5)~~

11 (6) Probation officers of the state.

12 ~~(6)~~

13 (7) Parole officers of the state.

14 ~~(7)~~

15 (8) A public defender or attorney of record when representing
16 a person in proceedings upon a petition for a certificate of
17 rehabilitation and pardon pursuant to Section 4852.08.

18 ~~(8)~~

19 (9) A public defender or attorney of record when representing
20 a person in a criminal case and when authorized access by statutory
21 or decisional law.

22 ~~(9)~~

23 (10) Any agency, officer, or official of the state when the local
24 summary criminal history information is required to implement a
25 statute, regulation, or ordinance that expressly refers to specific
26 criminal conduct applicable to the subject person of the local
27 summary criminal history information, and contains requirements
28 or exclusions, or both, expressly based upon the specified criminal
29 conduct.

30 ~~(10)~~

31 (11) Any city, county, city and county, or district, or any officer
32 or official thereof, when access is needed in order to assist the
33 agency, officer, or official in fulfilling employment, certification,
34 or licensing duties, and when the access is specifically authorized
35 by the city council, board of supervisors, or governing board of
36 the city, county, or district when the local summary criminal history
37 information is required to implement a statute, regulation, or
38 ordinance that expressly refers to specific criminal conduct
39 applicable to the subject person of the local summary criminal

1 history information, and contains requirements or exclusions, or
2 both, expressly based upon the specified criminal conduct.

3 ~~(11)~~

4 ~~(12)~~ The subject of the local summary criminal history
5 information.

6 ~~(12)~~

7 ~~(13)~~ Any person or entity when access is expressly authorized
8 by statute when the local summary criminal history information
9 is required to implement a statute, regulation, or ordinance that
10 expressly refers to specific criminal conduct applicable to the
11 subject person of the local summary criminal history information,
12 and contains requirements or exclusions, or both, expressly based
13 upon the specified criminal conduct.

14 ~~(13)~~

15 ~~(14)~~ Any managing or supervising correctional officer of a
16 county jail or other county correctional facility.

17 ~~(14)~~

18 ~~(15)~~ Local child support agencies established by Section 17304
19 of the Family Code. When a local child support agency closes a
20 support enforcement case containing summary criminal history
21 information, the agency shall delete or purge from the file and
22 destroy any documents or information concerning or arising from
23 offenses for or of which the parent has been arrested, charged, or
24 convicted, other than for offenses related to the parents having
25 failed to provide support for the minor children, consistent with
26 Section 17531 of the Family Code.

27 ~~(15)~~

28 ~~(16)~~ County child welfare agency personnel who have been
29 delegated the authority of county probation officers to access state
30 summary criminal information pursuant to Section 272 of the
31 Welfare and Institutions Code for the purposes specified in Section
32 16504.5 of the Welfare and Institutions Code.

33 (c) The local agency may furnish local summary criminal history
34 information, upon a showing of a compelling need, to any of the
35 following, provided that when information is furnished to assist
36 an agency, officer, or official of state or local government, a public
37 utility, or any entity, in fulfilling employment, certification, or
38 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
39 432.7 of the Labor Code shall apply:

1 (1) Any public utility, as defined in Section 216 of the Public
2 Utilities Code, which operates a nuclear energy facility when access
3 is needed to assist in employing persons to work at the facility,
4 provided that, if the local agency supplies the information, it shall
5 furnish a copy of this information to the person to whom the
6 information relates.

7 (2) To a peace officer of the state other than those included in
8 subdivision (b).

9 (3) To a peace officer of another country.

10 (4) To public officers, other than peace officers, of the United
11 States, other states, or possessions or territories of the United
12 States, provided that access to records similar to local summary
13 criminal history information is expressly authorized by a statute
14 of the United States, other states, or possessions or territories of
15 the United States when this information is needed for the
16 performance of their official duties.

17 (5) To any person when disclosure is requested by a probation,
18 parole, or peace officer with the consent of the subject of the local
19 summary criminal history information and for purposes of
20 furthering the rehabilitation of the subject.

21 (6) The courts of the United States, other states, or territories
22 or possessions of the United States.

23 (7) Peace officers of the United States, other states, or territories
24 or possessions of the United States.

25 (8) To any individual who is the subject of the record requested
26 when needed in conjunction with an application to enter the United
27 States or any foreign nation.

28 (9) Any public utility, as defined in Section 216 of the Public
29 Utilities Code, when access is needed to assist in employing
30 persons who will be seeking entrance to private residences in the
31 course of their employment. The information provided shall be
32 limited to the record of convictions and any arrest for which the
33 person is released on bail or on his or her own recognizance
34 pending trial.

35 If the local agency supplies the information pursuant to this
36 paragraph, it shall furnish a copy of the information to the person
37 to whom the information relates.

38 Any information obtained from the local summary criminal
39 history is confidential and the receiving public utility shall not
40 disclose its contents, other than for the purpose for which it was

1 acquired. The local summary criminal history information in the
2 possession of the public utility and all copies made from it shall
3 be destroyed 30 days after employment is denied or granted,
4 including any appeal periods, except for those cases where an
5 employee or applicant is out on bail or on his or her own
6 recognizance pending trial, in which case the state summary
7 criminal history information and all copies shall be destroyed 30
8 days after the case is resolved, including any appeal periods.

9 A violation of any of the provisions of this paragraph is a
10 misdemeanor, and shall give the employee or applicant who is
11 injured by the violation a cause of action against the public utility
12 to recover damages proximately caused by the violation.

13 Nothing in this section shall be construed as imposing any duty
14 upon public utilities to request local summary criminal history
15 information on any current or prospective employee.

16 Seeking entrance to private residences in the course of
17 employment shall be deemed a “compelling need” as required to
18 be shown in this subdivision.

19 (10) Any city, county, city and county, or district, or any officer
20 or official thereof, if a written request is made to a local law
21 enforcement agency and the information is needed to assist in the
22 screening of a prospective concessionaire, and any affiliate or
23 associate thereof, as these terms are defined in subdivision (k) of
24 Section 432.7 of the Labor Code, for the purposes of consenting
25 to, or approving of, the prospective concessionaire’s application
26 for, or acquisition of, any beneficial interest in a concession, lease,
27 or other property interest.

28 Any local government’s request for local summary criminal
29 history information for purposes of screening a prospective
30 concessionaire and their affiliates or associates before approving
31 or denying an application for, or acquisition of, any beneficial
32 interest in a concession, lease, or other property interest is deemed
33 a “compelling need” as required by this subdivision. However,
34 only local summary criminal history information pertaining to
35 criminal convictions may be obtained pursuant to this paragraph.

36 Any information obtained from the local summary criminal
37 history is confidential and the receiving local government shall
38 not disclose its contents, other than for the purpose for which it
39 was acquired. The local summary criminal history information in
40 the possession of the local government and all copies made from

1 it shall be destroyed not more than 30 days after the local
2 government's final decision to grant or deny consent to, or approval
3 of, the prospective concessionaire's application for, or acquisition
4 of, a beneficial interest in a concession, lease, or other property
5 interest. Nothing in this section shall be construed as imposing
6 any duty upon a local government, or any officer or official thereof,
7 to request local summary criminal history information on any
8 current or prospective concessionaire or their affiliates or
9 associates.

10 (d) Whenever an authorized request for local summary criminal
11 history information pertains to a person whose fingerprints are on
12 file with the local agency and the local agency has no criminal
13 history of that person, and the information is to be used for
14 employment, licensing, or certification purposes, the fingerprint
15 card accompanying the request for information, if any, may be
16 stamped "no criminal record" and returned to the person or entity
17 making the request.

18 (e) A local agency taking fingerprints of a person who is an
19 applicant for licensing, employment, or certification may charge
20 a fee not to exceed ten dollars (\$10) to cover the cost of taking the
21 fingerprints and processing the required documents.

22 (f) Whenever local summary criminal history information
23 furnished pursuant to this section is to be used for employment,
24 licensing, or certification purposes, the local agency shall charge
25 the person or entity making the request a fee which it determines
26 to be sufficient to reimburse the local agency for the cost of
27 furnishing the information, provided that no fee shall be charged
28 to any public law enforcement agency for local summary criminal
29 history information furnished to assist it in employing, licensing,
30 or certifying a person who is applying for employment with the
31 agency as a peace officer or criminal investigator. Any state agency
32 required to pay a fee to the local agency for information received
33 under this section may charge the applicant a fee sufficient to
34 reimburse the agency for the expense.

35 (g) Whenever there is a conflict, the processing of criminal
36 fingerprints shall take priority over the processing of applicant
37 fingerprints.

38 (h) It is not a violation of this article to disseminate statistical
39 or research information obtained from a record, provided that the
40 identity of the subject of the record is not disclosed.

1 (i) It is not a violation of this article to include information
2 obtained from a record in (1) a transcript or record of a judicial or
3 administrative proceeding or (2) any other public record when the
4 inclusion of the information in the public record is authorized by
5 a court, statute, or decisional law.

6 (j) Notwithstanding any other law, the Department of Justice
7 or any state or local law enforcement agency may require the
8 submission of fingerprints for the purpose of conducting summary
9 criminal history information record checks which are authorized
10 by law.

11 (k) Any local criminal justice agency may release, within five
12 years of the arrest, information concerning an arrest or detention
13 of a peace officer or applicant for a position as a peace officer, as
14 defined in Section 830, which did not result in conviction, and for
15 which the person did not complete a postarrest diversion program
16 or a deferred entry of judgment program, to a government agency
17 employer of that peace officer or applicant.

18 (l) Any local criminal justice agency may release information
19 concerning an arrest of a peace officer or applicant for a position
20 as a peace officer, as defined in Section 830, which did not result
21 in conviction but for which the person completed a postarrest
22 diversion program or a deferred entry of judgment program, or
23 information concerning a referral to and participation in any
24 postarrest diversion program or a deferred entry of judgment
25 program to a government agency employer of that peace officer
26 or applicant.

27 (m) Notwithstanding subdivision (k) or (l), a local criminal
28 justice agency shall not release information under the following
29 circumstances:

30 (1) Information concerning an arrest for which diversion or a
31 deferred entry of judgment program has been ordered without
32 attempting to determine whether diversion or a deferred entry of
33 judgment program has been successfully completed.

34 (2) Information concerning an arrest or detention followed by
35 a dismissal or release without attempting to determine whether the
36 individual was exonerated.

37 (3) Information concerning an arrest without a disposition
38 without attempting to determine whether diversion has been
39 successfully completed or the individual was exonerated.

1 SEC. 3. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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